

1 PHILLIP A. TALBERT
2 United States Attorney
3 KIMBERLY A. SANCHEZ
4 Assistant United States Attorney
5 2500 Tulare Street, Suite 4401
6 Fresno, CA 93721
7 Telephone: (559) 497-4000
8 Facsimile: (559) 497-4099

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11 Attorneys for Plaintiff
12 United States of America

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14 IN THE UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

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18 UNITED STATES OF AMERICA,
19 Plaintiff,
20 v.
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22 XAVIER ANTHONY RINCON
23 A/K/A JAVIER ANTHONY RINCON,
24 DEFENDANT.

25 CASE NO. 1:22-CR-00081-JLT-SKO
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27 STIPULATION REGARDING EXCLUDABLE
28 TIME PERIODS UNDER SPEEDY TRIAL ACT;
ORDER

CURRENT DATE: September 6, 2023
TIME: 1:00 p.m.
COURT: Hon. Sheila K. Oberto

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28 **STIPULATION**

1. By previous order, this matter was set for status on September 6, 2023.

2. By this stipulation, defendant now moves to continue the status conference until October 18, 2023, and to exclude time between September 6, 2023, and October 18, 2023, under 18 U.S.C. § 3161(h)(7)(A), B(iv).

3. The parties agree and stipulate, and request that the Court find the following:

a) The government asserts the discovery has been provided to counsel. The government is aware of its ongoing discovery obligation.

b) The parties are currently in plea negotiations. Undersigned AUSA has taken the case over after the previously assigned AUSA left the office and has engaged in substantive plea negotiations with defense. There are ongoing discussions regarding legal issues that need to be addressed before a plea agreement can be reached. The parties still need additional time to work

1 through a potential resolution of the case. Since the parties last filed a stipulation, the
2 government provided defendant with a plea offer.

3 c) Counsel for defendant desires additional time to consult with his client, to review
4 the current charges, to conduct investigation and research related to the charges, to review and/or
5 copy discovery for this matter, to discuss potential resolutions with their client, to investigate
6 matters related to sentencing and plea resolution and to discuss those with the government, and
7 to prepare pretrial motions, and to otherwise prepare for trial.

8 d) Counsel for defendant believes that failure to grant the above-requested
9 continuance would deny them the reasonable time necessary for effective preparation, taking into
10 account the exercise of due diligence.

11 e) The government does not object to the continuance.

12 f) Based on the above-stated findings, the ends of justice served by continuing the
13 case as requested outweigh the interest of the public and the defendants in a trial within the
14 original date prescribed by the Speedy Trial Act.

15 g) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161,
16 et seq., within which trial must commence, the time period of September 6, 2023 to October 18,
17 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv), because it
18 results from a continuance granted by the Court at defendants' request on the basis of the Court's
19 finding that the ends of justice served by taking such action outweigh the best interest of the
20 public and the defendant in a speedy trial.

21 4. Nothing in this stipulation and order shall preclude a finding that other provisions of the
22 Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial
23 must commence.

24 IT IS SO STIPULATED.

1 Dated: August 30, 2023

PHILLIP A. TALBERT
United States Attorney

5 Dated: August 30, 2023

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3 /s/ KIMBERLY A. SANCHEZ
4 KIMBERLY A. SANCHEZ
Assistant United States Attorney

5 /s/ JEFFREY T. HAMMERSCHMIDT
6 JEFFREY T. HAMMERSCHMIDT
7 Counsel for Defendant

8 **ORDER**

9 The parties shall be prepared to select a mutually agreeable trial date at the next status
10 conference.

11 IT IS SO ORDERED.

13 DATED: 9/1/2023

14 *Sheila K. Oberto*

15 THE HONORABLE SHEILA K. OBERTO
16 UNITED STATES DISTRICT JUDGE